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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,613	08/16/2001	Ernst-Michael Hamann	DE920000049US1	3019

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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,613

Applicant(s)

HAMANN ET AL.

Examiner

Etienne P LeRoux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 5 and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,357,005 issued to Devaux et al (hereafter Devaux '005).

Claim 1:

Devaux '005 discloses: embedding one or more static objects in the dynamic file system which are excluded from actions performed dynamically on the file system [Fig 1, 3]

Claim 5:

Devaux '005 discloses a chip card [abstract]

Claim 8:

Devaux '005 discloses a dynamic file system [abstract]

Claim 9:

Devaux '005 discloses a computer operating system program for execution in a data processing system comprising computer program code portions for performing respective steps of the method of claim 1 when the code portions are executed on the data processing system [col 3, line 48 through col 5, line 22].

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Claim 10:

Devaux '005 discloses a computer program product stored on a computer usable medium comprising computer readable program means for causing a computer to perform the method of claim 1 when the program product is executed on the computer [col 3, line 48 through col 5, line 22].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devaux '005

Claim 3:

Devaux '005 discloses the elements of claim 1 as noted above.

Devaux '005 fails to disclose creating an embedded static data object by specifying a predetermined storage size; scanning memory for an available storage area large enough in size for receiving the static data object; and allocating the storage area for the static object.

Official notice is taken that creating an embedded static data object by specifying a predetermined storage size; scanning memory for an available storage area large enough in size

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for receiving the static data object; and allocating the storage area for the static object is well-known and expected in the art.

The ordinarily skilled artisan would have been motivated to modify Devaux '005 for the purpose of providing a CD-ROM having encrypted data [abstract]

Claim 4

Devaux '005 discloses the elements of claim 1 as noted above.

Devaux '005 fails to disclose creating an embedded static data object by specifying a predetermined storage size; scanning memory for an available storage area large enough in size for receiving the static data object; and allocating the storage area for the static object.

Official Notice is taken that creating an embedded static data object by specifying a predetermined storage size; scanning memory for an available storage area large enough in size for receiving the static data object; and allocating the storage area for the static object is well-known and expected in the art.

The ordinarily skilled artisan would have been motivated to modify Devaux '005 as above for the purpose of a CD-ROM having encrypted data [abstract].

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Devaux '005 in view of US Pat No 5,819,252 issued to Benson et al (hereafter Benson '252).

Claim 2:

Devaux '005 discloses the elements of claim 1 as noted above.

Devaux '005 fails to disclose defining an embedded static object by a memory address and a fixed size.

Benson '252 discloses defining an embedded static object by a memory address and a fixed size [abstract]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Devaux '005 to include defining an embedded static object by a memory address and a fixed size as taught by Benson '252.

The ordinarily skilled artisan would have been motivated to modify Devaux '005 for the purpose of accessing a particular location in memory to process the correct data.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devaux '005 in view of Pub No US 2001/0042225 issued to Cepulis et al (hereafter Cepulis '225).

Claim 6:

Devaux '005 discloses the elements of claim 5 as noted above.

Devaux '005 fails to disclose accessing a static object in a pre-boot phase of a host system connected to the chipcard.

Cepulis '225 discloses accessing a static object in a pre-boot phase of a host system connected to the chipcard [claim 25]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Devaux '005 to include accessing a static object in a pre-boot phase of a host system connected to the chipcard as taught by Cepulis '225.

The ordinarily skilled artisan would have been motivated to modify Devaux '005 for the purpose of providing secure startup of the computer system.

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Claim 7:

Devaux '005 discloses the elements of claim 6 as noted above

Devaux '005 discloses storing security-relevant data in a static object [abstract]

Response to Arguments

Applicant's arguments filed 11/26/2003, have been fully considered but they are not persuasive.

Applicant Argues:

Applicant states on page 6, "The Examiner urges that Cepulis teaches 'accessing a static object in a pre-boot phase of a host system connected to the chip card' as recited in applicant's claims 6 and 7. This is simply not correct. While the master control device 140 and boot-strap processor BSP of Cepulis may access ID codes during initialization, these objects are stored in a non-volatile memory device 130 and are not 'embedded in a dynamic file system as claimed by applicants. No special action is thus necessary to exclude such objects from actions on such a file system."

Examiner Responds:

Examiner is not persuaded. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

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In supra Office Action, claims 6 and 7 are rejected over Devaux '005 in view of Cepulis '225. Devaux discloses managing a file system on a chipcard and Cepulis discloses accessing a static object in a pre-boot phase of a host system connected to the chipcard.

Examiner maintains that the combination of Devaux '005 and Cepulis '225 discloses 'accessing a static object in a pre-boot phase of a host system connected to the chip card.'

Applicant Argues:

Applicant presents multiple arguments unrelated to claim limitations e.g., page 4, paragraph 2 states "In applicants' claimed method for managing a dynamic file system (12), there are embedded in the dynamic file system one or more static data objects (22) that are excluded from actions performed dynamically on the file system. By thus 'playing around' certain static data objects, applicants are able to enjoy the advantages of a dynamic file system (in terms of flexible memory allocation and the like), while retaining the ability to statically access certain objects (as at boot time, when the file system has not yet been loaded)."

Examiner Responds:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of

the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

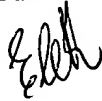
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Etienne LeRoux

12/8/2003



SAFET METJAHIC
SUPERVISORY PATENT EXAMINER
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